

02- R-0572

(Do Not Write Above This Line)

A RESOLUTION

BY COUNCIL MEMBER *Patricia A. Moore*

A RESOLUTION STATING THE CITY OF ATLANTA'S FULL SUPPORT OF THE NATIONAL LEAGUE OF CITIES 2002 POLICY PRIORITY WHICH CALLS ON THE FEDERAL GOVERNMENT TO ENSURE THAT FUTURE TRADE AGREEMENTS DO NOT UNDERMINE TRADITIONAL LOCAL AUTHORITY TO DESIGN LAND USE POLICIES AND ECONOMIC DEVELOPMENT INITIATIVES, AND TO ENFORCE HEALTH AND ENVIRONMENTAL AND PURCHASING REGULATIONS AND FOR OTHER PURPOSES.

- ☐ CONSENT REFER
☐ REGULAR REPORT REFER
☐ ADVERTISE & REFER
☐ 1st ADOPT 2nd READ & REFER
☒ PERSONAL PAPER REFER

Date Referred

3/18/02

Referred To:

Finance / Executive

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee _____
Date _____
Chair _____
Referred to _____

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

FINAL COUNCIL ACTION

☐ 2nd ☐ 1st & 2nd ☐ 3rd
Readings
☐ Consent ☐ V Vote ☐ RC Vote

CERTIFIED

MAYOR'S ACTION

02-R-0572

A RESOLUTION

BY COUNCILMEMBER  FELICIA A. MOORE

A RESOLUTION STATING THE CITY OF ATLANTA'S FULL SUPPORT OF THE NATIONAL LEAGUE OF CITIES 2002 POLICY PRIORITY WHICH CALLS ON THE FEDERAL GOVERNMENT TO ENSURE THAT FUTURE TRADE AGREEMENTS DO NOT UNDERMINE TRADITIONAL LOCAL AUTHORITY TO DESIGN LAND USE POLICIES AND ECONOMIC DEVELOPMENT INITIATIVES, AND TO ENFORCE HEALTH AND ENVIRONMENTAL AND PURCHASING REGULATIONS AND FOR OTHER PURPOSES.

Whereas, the National League of Cities has identified Trade Promotion Authority and Potential Implications on Domestic Takings Law as a "Hot Issue" in 2002; and

Whereas, in a effort to expand trade and reassure potential trading partners, the Bush Administration has been seeking trade promotion authority, which prevents Congress from amending trade agreements negotiated by the Administration and submitted for approval, and

Whereas, provisions of international trade agreements can create rights for private companies and countries to file cases against American cities and towns alleging that the government entities are violating NAFTA or WTO by having policies that favor U.S. firms over foreign firms or are "taking" the U.S. property of the foreign firm through domestic regulations; and

Whereas, these agreements give foreign corporations rights that are superior to those afforded under the U.S. Constitution to U.S. residents and business entities, particularly regarding "takings" issues, and

Whereas, if the U.S. does not seek an amendment of existing agreements and/or pursue additional agreements, U.S. municipalities may face federal mandates or preemptions on a range of subjects that municipalities may legislate or regulate, and

Whereas, the House passed trade promotion authority (H.R. 3005) by a slim margin and the Senate shall consider the bill on the floor this spring; and

Whereas, Senator John Kerry (D-Mass.) is expected to offer an amendment on the Senate floor during consideration on trade promotion authority that will strengthen the language in H.R. 3005 concerning investor-state disputes and will direct U.S. trade negotiators to ensure that foreign and domestic investors are not allowed recourse in an international dispute resolution body that would circumvent or weaken domestic law.

NOW, THEREFORE BE IT RESOLVED BY THE ATLANTA CITY COUNCIL AND THE CITY OF ATLANTA, that we are is full support of the National League of Cities 2002 policy priority which calls on the federal government to ensure that future trade agreements do not undermine traditional local authority to design land use policies and economic development initiatives, and to enforce health and environmental and purchasing regulations, and

Be It Further Resolved, that the City of Atlanta encourages our Georgia Senators to support the Kerry amendment and ensure that trade promotion authority does not accomplish what takings compensation legislation failed to achieve in the 104th Congress; and

Be it Further Resolved, that the City of Atlanta is relying on our Georgia Congressional Delegation to use their power to safeguard the rights of our municipalities to regulate land-use activities in our communities; and

Be it Further Resolved, that the City of Atlanta and cities across the country are seeking Congressional attention to this most urgent issue to ensure that cities can benefit from expanded trade, without hampering the ability for local regulation and controls; and

Be it Further Resolved, that the Municipal Clerk of the City of Atlanta is hereby directed to transmit a “true copy” of this resolution to all members to the Georgia Congressional Delegation.

National League of Cities



2002 Hot Issues

Trade Promotion Authority & Potential Implications on Domestic Takings Law

This is a priority within the National League of Cities 2002, which calls on the federal government to ensure that future trade agreements do not undermine traditional local authority to design land use policies and economic development initiatives, and to enforce health and environmental regulations.

Background

In an effort to expand trade and reassure potential trading partners, the Bush Administration has been seeking trade promotion authority, which prevents Congress from amending trade agreements negotiated by the Administration and submitted for approval. In essence, trade promotion authority allows Congress to set trade negotiating objectives for the Administration, in exchange for an agreement to vote on the result without changes.

The House passed trade promotion authority (H.R. 3005) by a slim margin late last year, the Senate Finance Committee approved the bill with minor changes, and it will be considered on the Senate floor sometime in the spring. The bill would provide the U.S. Trade Representative (USTR) with the authority to pursue negotiations to eliminate and reduce trade barriers in areas such as services, agriculture, investment, intellectual property and regulatory practices, while directing the USTR to recognize legitimate health, safety, security, and consumer interests during trade negotiations.

H.R. 3005 does include language instructing the USTR to seek to establish "standards for expropriation and compensation for expropriation, consistent with United States legal principles and practice." However, there is concern that the language is too vague, and future trade negotiations, particularly a hemispheric Free Trade Area of the Americas (FTAA), could include provisions that

expand the opportunities for foreign investors operating in the United States to challenge the actions of state and local governments as a "regulatory taking."

Chapter 11 of the North American Free Trade Agreement (NAFTA) already provides foreign companies the opportunity to challenge state and local regulations in international arbitration panels rather than seeking recourse in our domestic judicial system. According to some legal experts, recent experience under NAFTA supports the conclusion that general language in H.R. 3005 could lead to the inclusion of expansive takings provisions in future trade agreements.

Senator John Kerry (D-Mass.) is expected to offer an amendment on the Senate floor during consideration of trade promotion authority that will strengthen the language in H.R. 3005 concerning investor-state disputes. Specifically, the amendment will direct U.S. trade negotiators to ensure that foreign and domestic investors are not allowed recourse in an international dispute resolution body that would circumvent or weaken domestic takings law.

NLC Policy and Position

Although NLC supports the goal of expanded trade and recognizes the benefits of liberalized trade for local economies, there continues to be uncertainty whether there is an inherent conflict between global trade agreements and local authority. In particular, there is concern that a single set of trade rules will have the potential to undermine traditional local responsibilities to design land use policies, economic development initiatives, as well as health and environmental regulations. NLC continues to be concerned that current standards in takings and private property claims may be disrupted by a new set of foreign investor rights. These new avenues of recourse could conflict with current state and local ordinances that provide for a balanced approach to local zoning regulations. NLC has long opposed regulations and statutes that place restrictions on state and local government actions. Specifically, NLC opposes restrictions that regulate private property or require additional compensation beyond the continually evolving judicial interpretations of the Fifth Amendment of the U.S. Constitution on this issue.

NLC will continue to work with Congress and the Administration to ensure that current and future trade agreements contain sufficient safeguards to preserve local decision-making and law-making prerogatives.

➤➤Action

Encourage your Senators to support the Kerry amendment and ensure that trade promotion authority does not accomplish what takings compensation legislation failed to achieve in the 104th Congress.

➤ *Remind your Congressional delegation that local elected officials often rely on their power to regulate land-use related activities in their communities. Zoning ordinances alone provide a powerful tool for promoting such priorities as a mix of residential, office, and commercial uses, the preservation of green space, and the reuse of previously developed or vacant parcels of urban land.*

➤ *While cities can benefit from expanded trade, the ability of local governments to experiment with new regulatory approaches to land use must not be compromised by expropriation language that does not meet the standards of domestic law.*

For further information contact:

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